

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

-----X	
JEFFREY C. CONKLIN and	:
MATTHEW THOMAS NAYLOR	:
Plaintiffs,	:
v.	:
	:
MORAN INDUSTRIES, INC.,	: CASE NO. 2:11-cv-00411-JP
MORAN LOGISTICS, LLC,	:
JET I LLC,	:
LOGISTICS RESOURCE, LLC,	:
ACP JET CHARTERS, INC., and	:
HELICOPTER 1, LLC	:
Defendants.	:
-----X	

ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2011, upon consideration of Plaintiffs' Motion for Remand and for Costs and Attorney's Fees, and any and all responses filed thereto, it is hereby ORDERED that Plaintiffs' Motion is GRANTED. Defendants' Notice of Removal was frivolous.

This matter shall be remanded to the Philadelphia Court of Common Pleas upon entry of this Order, including for the calculation of the attorney's fees and costs to be paid by Defendants to Plaintiffs.

BY THE COURT:

\_\_\_\_\_  
THE HONORABLE JOHN R. PADOVA

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

-----X	
JEFFREY C. CONKLIN and	:
MATTHEW THOMAS NAYLOR	:
Plaintiffs,	:
v.	:
	:
MORAN INDUSTRIES, INC.,	: CASE NO. 2:11-cv-00411-JP
MORAN LOGISTICS, LLC,	:
JET I LLC,	:
LOGISTICS RESOURCE, LLC,	:
ACP JET CHARTERS, INC., and	:
HELICOPTER 1, LLC	:
Defendants.	:
-----X	

ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2011, upon consideration of Plaintiffs' Motion for Remand, and any and all responses filed thereto, it is hereby ORDERED that Plaintiffs' Motion is GRANTED.

This matter shall be remanded to the Philadelphia Court of Common Pleas upon entry of this Order.

BY THE COURT:

\_\_\_\_\_  
THE HONORABLE JOHN R. PADOVA

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

-----X	
JEFFREY C. CONKLIN and	:
MATTHEW THOMAS NAYLOR	:
Plaintiffs,	:
v.	:
	:
MORAN INDUSTRIES, INC.,	: CASE NO. 2:11-cv-00411-JP
MORAN LOGISTICS, LLC,	:
JET I LLC,	:
LOGISTICS RESOURCE, LLC,	:
ACP JET CHARTERS, INC., and	:
HELICOPTER 1, LLC	:
Defendants.	:
-----X	

PLAINTIFFS' REPLY TO DEFENDANTS' RESPONSE TO MOTION TO REMAND

This case must be remanded to the Court of Common Pleas of Philadelphia County because substantial federal question jurisdiction is lacking. Defendants do not present any case law authority that rebuffs Plaintiffs' contention that a wrongful termination claim is essentially a state matter and should be tried in a state court. While the Defendants attempt to factually distinguish Eastman v. Marine Mech. Corp., 438 F.3d 544, 546 (6th Cir. 2006), cert. denied, 549 U.S. 815 (2006), they do not address Eastman's reasoning that wrongful termination claims are state claims except when statutes confer federal authority (such as Title VII, ADA or ADEA). In fact, the Defendants cite no case authority at all to support the contention that this case could be heard in federal court without disturbing the balance between state and federal judicial responsibilities.

Defendants also do not address Plaintiffs' argument that incorporation of AIR 21 into the body of the complaint is not sufficient to raise a federal question. Defendants do not address Campbell v. Aerospace Corp., 123 F.3d 1308, 1316 (9th Cir. 1997) (holding

so) or Donofry v. Nazareth Hospital, 721 F.Supp. 732, 734 (E.D. Pa. 1989) (holding that the public policy contained within OSHA rules does not raise a federal question).

Defendants' only argument is that citations to AIR 21 raise a substantial federal question, but Defendants cite no authority for the contention.

For the foregoing reasons, Plaintiffs respectfully request that the Motion to Remand be granted and this case be returned to the Court of Common Pleas of Philadelphia County.

Respectfully submitted,

THE AXELROD FIRM, PC

Dated: March 14, 2011

By: Sheryl L. Axelrod /s/  
Sheryl L. Axelrod, Esquire  
The Beasley Building  
1125 Walnut Street  
Philadelphia, PA 19107  
[www.theaxelrodfirm.com](http://www.theaxelrodfirm.com)  
Direct Dial: 215.461.1768  
Main Number: 215.461.1770  
Telecopier: 215.238.1779  
Email: [saxelrod@theaxelrodfirm.com](mailto:saxelrod@theaxelrodfirm.com)  
Counsel for Plaintiffs  
Matthew Thomas Naylor and  
Jeffrey C. Conklin

CERTIFICATE OF SERVICE

I hereby swear that service of the Plaintiffs' Reply To Defendants' Response To Motion To Remand in the above-captioned action was accomplished by first class mail on March 14, 2011 upon defendants' counsel at the following address:

James G. Lare, Esquire  
Marshall, Dennehey, Warner, Coleman & Goggin  
1845 Walnut Street  
Philadelphia, PA. 19103

Respectfully Submitted,  
THE AXELROD FIRM, PC

By: Sheryl L. Axelrod /s/  
Sheryl L. Axelrod, Esquire  
The Beasley Building  
1125 Walnut Street  
Philadelphia, PA. 19107  
[www.theaxelrodfirm.com](http://www.theaxelrodfirm.com)  
Direct Dial: 215.461.1768  
Main Number: 215.461.1770  
Telecopier: 215.238.1779  
Email: [saxelrod@theaxelrodfirm.com](mailto:saxelrod@theaxelrodfirm.com)  
Counsel for Plaintiffs  
Matthew Thomas Naylor and  
Jeffrey C. Conklin